



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/151045

PRELIMINARY RECITALS

Pursuant to a petition filed July 31, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on August 22, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly determined Petitioner's FoodShare benefits for the months of July and August 2013 after Petitioner reported a change in employment and a person add.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Katherine May
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner filed an online access application on Sunday, the June 30, 2013 at 5:09 PM. The application sought to add Petitioner's son to Petitioner's already open FoodShare case. He had

been in the home of his father but the father was suddenly incarcerated and the son moved to Petitioner's home. She also reported that she was not working on that June 30 access application.

3. The agency requested proof that Petitioner was no longer working and received that on July 2, 2013.
4. The agency processed the online application on Monday July 1, 2013 and increased Petitioner's benefits to \$204.00 for July 2013 and \$367.00 for August 2013.
5. Petitioner received a FoodShare allotment for April, May and June 2013 in the amount of \$200.00 per month.

DISCUSSION

The agency maintains that changes reported in one month are effective in the next and that the Sunday, June 30 5:09 PM access application was received on the next business day July 1, 2013. *See FoodShare Wisconsin Handbook, §2.1.1.4.* Thus the agency maintains the person add and increase in FoodShare because income decreased was appropriately effective August 1, 2013.i

In reviewing this case for decision, however, I have so many questions about potential errors that I am remanding this to the agency to review. As examples - first, the agency did, in fact add Petitioner's son to her FoodShare case effective July 1, 2013 but not the income decrease. Second, case notes suggest that the income being counted for Petitioner includes child support but Petitioner has not had children in her care since early 2013. Third, the case notes suggest that Petitioner's son who moved into her home receives Social Security in the amount of \$674.00. If so, that does not appear to be counted as household income.

The agency will have to review household income and allotment levels and send a manual notice to Petitioner detailing its findings.

CONCLUSIONS OF LAW

The evidence is not sufficient to demonstrate agency has correctly determined Petitioner's FoodShare benefits.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency with instructions to review Petitioner's FoodShare case for the months of July and August 2013; paying particular attention to household income. Any discrepancies in the amount of benefits must be adjusted and Petitioner notified of the results of the review. This must be done within 10 days of the date of this Decision.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

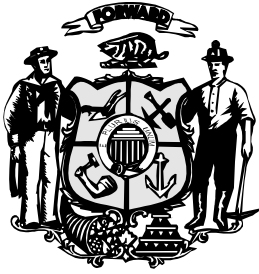
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 10th day of September, 2013

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 10, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability